

Application No. 10/630,883
Amendment dated March 21, 2008
Reply to Office Action of December 21, 2007

REMARKS

**Reconsideration And Allowance
Are Respectfully Requested.**

Claims 46-51. No claims have been canceled. Claims 46 and 51 have been amended to overcome the objection. No new matter has been added. No new claims have been added. Reconsideration is respectfully requested.

With regard to the outstanding rejection based upon references cited by the Examiner, claims 46-51 stand rejected under 35 U.S.C. § 102 (b) as being anticipated by U.S. Patent No. 4,832,686 to Anderson. This rejection is respectfully traversed.

In particular, independent claims 46 and 51 both define a marker for marking a cavity site. In particular, claim 46 defines an intracorporeal marker for marking a cavity site within the body of a mammalian patient from which a tissue sample has been removed during a biopsy. The marker includes a mass of material that is detectable by at least two remote imaging detection methods when introduced into the cavity site created when the tissue has been removed. The mass of material remains detectable at the cavity site for a first period of time after its introduction into the cavity site and that does not interfere with imaging of tissue adjacent the cavity site after the first period of time.

Specifically, the claimed invention differentiates from Anderson in that Anderson does not disclose a detectable mass of material that remains detectable at the cavity site for a first period of time after introduction into the cavity and does not interfere with imaging of tissue adjacent the tissue site after the first period of time.

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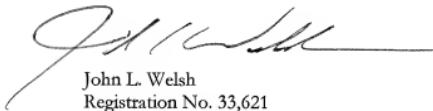
Although Anderson does discuss the utilization of radiopaque markers in conjunction with a bioerodible, biocompatible polymer, Anderson is totally silent as to the manner in which the sample would be detectable and the periods of time during which the material would be detectable. In fact, there is no indication the radiopaque material of Anderson is bioerodible and does not interfere with imaging after the first period of time. As such, the assumption by the Office Action that “the ability of the material to degrade in a specified period of time would also inherently disclose the ability to image the site for a first predetermined time and not interfere with imaging during a second time” relies upon assumptions not supported by the technology. In particular, although it is certainly possible that a bioerodible composition could degrade during a first period of time, there is no disclosure in Anderson that the imaging component thereof is also bioerodible. As such, the radiopaque marker of Anderson might remain at the treatment site for a period greater than the claimed first period of time, or even permanently. With this in mind, the Examiner’s assumption that the composition disclosed by Anderson would function as claimed in accordance with the present invention is entirely unsupported and the rejection is believed to be improper as Anderson certainly does not disclose each and every feature of the claimed invention.

With this in mind, it is Applicants’ opinion the rejection of independent claims 46 and 51 under 35 U.S.C. § 102 is improper and Applicants respectfully request these rejections be withdrawn. As to the rejection of claims 47, 48, 49 and 50, these claims are dependent upon claim 46 and Applicants believe these claims overcome Anderson for at least the reasons presented above. As such, Applicants respectfully request these rejections also be withdrawn.

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It is believed that this case is in condition for allowance and reconsideration thereof and early issuance is respectfully requested. If it is felt that an interview would expedite prosecution of this application, please do not hesitate to contact Applicants' representative at the below number.

Respectfully submitted,



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